

REMARKS

This Preliminary Amendment is being filed with a Request for Continued Examination. With this Amendment, claims 1, 13 and 23 have been amended. No new matter is added. Therefore, claims 1-2, 5-14 and 23-29 are all the claims currently pending in the present application. Based on the foregoing amendments, and the following remarks, Applicant respectfully requests reconsideration of the application and allowance of the claims.

I. Rejection of Claim 13 Under 35 U.S.C. § 112, Second Paragraph

Claim 13 stands rejected under 35 U.S.C. § 112, second paragraph as alleged being indefinite for reciting the term “means.” (See pg. 2 of the Office Action) Applicant herein amends claim 13 and submits that the self-explanatory amendment overcomes the rejection. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 112, second paragraph rejection of claim 13.

II. Rejection of Claims 1, 2, 5-8, 10, 12-14, and 23-25, 27 and 29 Under 35 U.S.C. § 103(a)

Claims 1, 2, 5-8, 10, 12-14, and 23-25, 27 and 29 stand rejected as being allegedly unpatentable over Hashimoto et al. (U.S. Patent No. 6,263,201; hereinafter “Hashimoto”) in view of Gerszber (U.S. Patent Publication No. 2001/0050977; hereinafter “Gerszber”).

Claim 13 requires “[a] communication device including a messaging user interface, the interface being configured for” “selecting a component for inclusion in a message, selecting *location conditions under which the message is enabled to be opened by a device of a recipient.*” The interface is also being configured for “storing said component as a message together with a message header holding the *location conditions under which the message is enabled to be opened by the device of the recipient* in a memory of the communication device.”

Applicant respectfully submits that the combination does not teach or suggest the above features of claim 13. In contrast to claim 13, Gerzberg, at best, discloses only that time and date conditions may be set for programming a video phone to display greetings to callers at certain times and/or dates. The Gerzberg patent is unconcerned with and does not teach or suggest location conditions. The Examiner correctly concedes that Gerzberg does not teach or suggest

location conditions but to meet the claimed feature, the Examiner cites to the Hashimoto patent. (See pgs 2-3 of the Office Action) However, the Hashimoto patent is directed to a scheduled data transmission system in which data transmissions are scheduled based on date and/or time. Even assuming *arguendo* that Hashimoto provides several references to the location of the recipient, the recipient's location is not a condition for opening a message. Rather, Hashimoto, either alone or in combination with Gerzberg, describes that the date and/or time of transmission of a message could be set for a time at which the recipient will presumably be at a particular location. Accordingly, the location of the recipient is immaterial to the recipient's ability to open the message. The message will be transmitted at the designated time regardless of whether the recipient actually ends up at the particular location. Hashimoto, either alone or in combination with Gerzberg, also describes an ability to set pager registration for a different location at a time in the future. Thus, if one is traveling to another area, rather than having to register when in the other area, the user can select a time at which the user expects to be in the other area and program the device to register with the other area at the selected time. In this embodiment of Hashimoto as well, the location of the user is immaterial to the registration change except to the extent that the user's location may be guessed based on the time. Thus, if the user is delayed, ahead of schedule, or cancels the journey, the registration change will still take effect at the selected time and therefore time, and not location, is the operative condition for transmitting the message or changing registration. Furthermore, Applicant notes that Gerzberg discloses a time/date at which an object may be displayed in a message, while Hashimoto discloses time/date scheduling for transmission of a message or registration of a pager. Neither reference, either alone or in combination, places any condition on the recipient's ability to open a received message. At best, the time at which the message will be received is controlled.

For at least the foregoing reasons, Applicant submits that both Gerzberg and Hashimoto, either alone or in combination, fail to teach or suggest "location conditions under which a message is enabled to be opened by a device of a recipient," as required by claim 1. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of claim 1 and its dependent claims 2 and 5-14.

Since claim 23 contains features that are analogous to, though not necessarily coextensive with, the feature recited in claim 1, Applicant submits that claim 23 and its dependent claims 24-29 are patentable at least for the reasons submitted for claim 1.

III. Rejection of Claims 9, 11, 26 and 28 Under 35 U.S.C. § 103(a)

Claims 9, 11, 26 and 28 stand rejected as being allegedly unpatentable over Hashimoto in view of Gerszber and further in view of Jennings (U.S. Patent No. 5,781,186; hereinafter "Jennings"). Applicant respectfully traverses this rejection for at least the following reasons.

As discussed above, Hashimoto and Gerszber, either alone or in combination, are deficient vis-à-vis independent claims 1 and 23 and Jennings does not make up for the deficiencies of Hashimoto and Gerszber. Accordingly, claims 9, 11, 26 and 28 are patentable at least by virtue of their respective dependencies from claims 1 and 23. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of dependent claims 9, 11, 26 and 28.

IV. Conclusion

In view of the foregoing remarks, Applicant respectfully submits that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Hashem is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

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